

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

HOWARD WILLIAM RANDOLPH, :

Plaintiff : CIVIL ACTION NO. 1:13-1444

**v. : (MANNION, D.J.)
(SCHWAB, M.J.)**

**CAROLYN W. COLVIN,
Commissioner of Social Security
Administration, :**

Defendant :

MEMORANDUM

Pending before the court is the report of Magistrate Judge Susan E. Schwab, which recommends that the instant action be remanded for further proceedings in relation to the plaintiff's claim for disability insurance benefits. (Doc. [18](#)). Specifically, Judge Schwab recommends that on remand the Administrative Law Judge, ("ALJ"), enforce the subpoena issued by him for the plaintiff's medical records from the plaintiff's treating physician, Mary Jo Szada, and conduct further proceedings, including but not limited to a further review of the plaintiff's credibility. In the alternative, Judge Schwab recommends that the ALJ provide an adequate explanation on the record as to why Dr. Szada's medical records are not necessary for a full presentation of the plaintiff's case and the impact, if any, the absence of such records has on the plaintiff's credibility determination. Both the defendant and plaintiff have waived their opportunity to object to Judge Schwab's report and recommendation. (Doc. [19](#), Doc. [20](#)).

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." [Fed.R.Civ.P. 72\(b\)](#), advisory committee notes; see also [Univac Dental Co. v. Dentsply Intern., Inc.](#), 702 F.Supp.2d 465, 469 (2010) (citing [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every Report and Recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); Local Rule 72.31.

The court has reviewed each of the recommended bases for remand of the instant action presented by Judge Schwab. Because the court agrees with the sound reasoning that led Judge Schwab to the conclusions in her report and finds no clear error on the face of the record, the court will adopt the report in its entirety. An appropriate order shall issue.

/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: August 11, 2014

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